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6 Attorneys for Plaintiff  
7 DIOPTICS MEDICAL PRODUCTS, INC.

8  
9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA

11 DIOPTICS MEDICAL PRODUCTS, INC.,  
12 a California corporation,

13 Plaintiff,

14 v.

15 BEI FRANCHISING, INC.,  
16 a Michigan corporation,

17 Defendant.

18 Case No. C-06-02643 (MMC)

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**CONSENT MOTION TO ENLARGE  
TIME AND ORDER EXTENDING DATE  
FOR ALL DATES SET FORTH IN THE  
APRIL 19, 2006, ORDER SETTING  
INITIAL CASE MANAGEMENT  
CONFERENCE AND ADR DEADLINES  
AND [PROPOSED] ORDER**

Date: August 18, 2006  
Time: 9:00 a.m.  
Courtroom: 7, 19th Floor  
Before: Honorable Maxine M. Chesney

1                   **NOTICE OF MOTION AND MOTION**

2 TO DEFENDANT BEI FRANCHISING AND ITS ATTORNEYS OF RECORD:

3                   PLEASE TAKE NOTICE that on August 18, 2006 at 9:00 a.m. or soon thereafter as the  
4 matter may be heard in the above-entitled Court, located at 450 Golden Gate Avenue, San  
5 Francisco, California, 94102, plaintiff DIOPTICS MEDICAL PRODUCTS, INC., will, and  
6 hereby does, move this Court for an order extending the dates of the Court's April 19, 2006 Order  
7 Setting Initial Case Management Conference and ADR Deadlines. This consent motion will be  
8 based on the attached memorandum of points and authorities, the documents and records on file with  
9 the Court in this action, without oral argument as this motion is consented by defendant BEI  
10 Franchising, Inc.

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## **MEMORANDUM OF POINTS AND AUTHORITIES**

Dioptics Medical Products, Inc., (“Dioptics”) is the owner of several registered trademarks incorporating “Polar” in Trademark International Classification Code 009. On April 19, 2006 Dioptics filed suit against BEI alleging that BEI’s registered marks and graphics mark application infringed Dioptics’s Polar Family of Marks. *See* Complaint, ¶¶14-18. The parties have been in settlement negotiations. Dioptics files this consent motion for an extension of the due dates set forth in the Court’s April 19, 2006 Order Setting Initial Case Management Conference and ADR Deadlines by 45 days as indicated in the chart below or such other date as may be set by the Court.

BEI consents to this motion. Lee Decl., ¶ 4, Ex. A. The parties have not filed a joint stipulation because BEI's Counsel, Mr. Benjamin B. Reed, is not admitted to practice law in the State of California and is not admitted *Pro Hac Vice* in this proceeding.

Date	Proposed Date	Event
7/14/2006	8/28/2006	Last day to: <ul style="list-style-type: none"> <li>○ meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan</li> <li>○ file ADR Certification Signed by Parties and Counsel</li> <li>○ file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference</li> </ul>
7/28/2006	9/11/2006	Last day to complete initial disclosures or state objection in Rule 26(f) Report, file Case Management Conference Statement, and file Rule 26(f) Report
8/4/2006	9/18/2006	INITIAL CASE MANAGEMENT CONFERENCE (CMC) in Ctrm 7, 19th Floor at 10:30 AM

Accordingly, Dioptics requests at the Court's earliest convenience that the Court grant Dioptics's motion to extend the due dates as indicated in the chart above, without the need for oral argument since BEI consents to this motion.

1 DATED: July 11, 2006

Respectfully submitted,

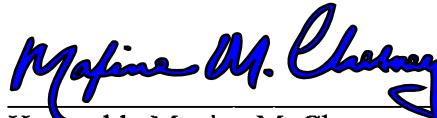
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McDERMOTT WILL & EMERY LLP3 By /s/ John A. Lee

4 David S. Bloch

John A. Lee

5 Attorneys for Plaintiff  
6 DIOPTICS MEDICAL PRODUCTS, INC.7  
8  
**[PROPOSED] ORDER**  
910 Good cause appearing therefore, it is hereby ORDERED all dates and deadlines set forth in  
11 the April 19, 2006 Order Setting Initial Case Management Conference and ADR Deadlines  
12 are extended for 45 days as indicated in the chart below.  
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New Date	Event
8/28/2006	Last day to: <ul style="list-style-type: none"> <li>○ meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan</li> <li>○ file ADR Certification Signed by Parties and Counsel</li> <li>○ file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference</li> </ul>
9/11/2006 9/22/2006	Last day to complete initial disclosures or state objection in Rule 26(f) Report, file Case Management Conference Statement, and file Rule 26(f) Report
9/18/2006 9/29/2006	INITIAL CASE MANAGEMENT CONFERENCE (CMC) in Ctrm 7, 19th Floor at 10:30 AM

21  
22 IT IS SO ORDERED.  
2324 DATED: July 14, 2006

25 Honorable Maxine M. Chesney, Judge  
United States District Court  
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28 MPK 111779-1.070302.0028